

**REMARKS/ARGUMENTS**

Claims 3-6 and 12-14 are pending herein. Pending independent claim 3 has been amended as supported throughout the present application. Claims 10 and 11 have been canceled without prejudice or disclaimer. New claims 12-14 are added hereby, as supported by original claims 7-9.

1. Claims 3 and 4 were rejected under §103(a) over Woolston in view of Friedland et al. To the extent that this rejection might be applied against amended claim 3 (and all claims depending therefrom), it is respectfully traversed.

Pending independent claim 3 recites, among other things, an online trading system including information showing means for showing the information of an article that is for sale via communicating means, prior bid receiving means for receiving a bid for the article via the communicating means, and auction selecting means for putting the article up for auction after the predetermined period.

Pending claim 3 has been amended in order to clarify that the information showing means shows the sale article information for a predetermined period and the prior bid receiving means receives bids for the sale article via the communicating means for that predetermined period. Pending independent claim 3 has been further amended to clarify that the auction selecting means puts the article up for auction after showing the information of the article for the predetermined period.

Woolston discloses a system including a consignment node having four separate modes of operation (i.e., a software download mode, an auction mode, a market mode, and an agent mode), which Woolston explicitly states are not linked to one another (please see column 3, lines 8-24 of Woolston, for example). For instance, a participant can log into the market mode and offer an item for sale, but the users of Woolston's system must log into a separate, distinct auction mode to put that same item up for auction. There is absolutely no disclosure in Woolston, however, that a

prior bid receiving means receives a bid for the sale article for a predetermined period, after the expiration of which an auction selecting means puts the sale article up for auction, as claimed. In fact, Woolston discloses that “the good may be posted on the consignment node by the means described above [i.e., the market mode] but the data record representing the good is identified as waiting for an auction date and may not be purchased on the electronic market” (emphasis added; see column 5, lines 50-54 of Woolston, for example). This is one reason that the PTO’s rejection based on Woolston is erroneous and should be withdrawn.

The PTO correctly acknowledges that Woolston does not disclose or suggest a “successful bid determining means,” as claimed. Indeed, because Woolston’s market and auction modes are separate, distinct modes of operation within Woolston’s system, skilled artisans would easily understand that Woolston does not disclose or suggest such a “successful bid determining means” feature. Nor does Friedland, discussed below, cure this deficiency of Woolston.

U.S. case law makes absolutely clear that the PTO, when combining references, must analyze the references and combine such references based on what is actually taught by the references. With this elementary principle in mind, the auction process illustrated by Fig. 2 of Friedland and discussed at column 6, lines 14-53, shows that a lot (i.e., an item to be auctioned) is registered for auction and is in the lot registered state, the pre-bid state, the open-for-bidding state, or the pass state. A lot in the lot registered state is merely identified as one that will, at some point, enter into one of the other states. If a lot is in the pre-bid state, participants can bid on the lot before it is actively put up for auction. It is clear, however, when viewing Friedland’s disclosure in the proper context (i.e., within the context of an auction) that bids accepted into the system in the pre-bid state of the auction are merely bids (i.e., when the bid is accepted, the item is not sold and awaits further bidding in the open-for-bid state). As such, the pre-bid state is an extension of the auction, and does not correspond to offering the item for sale at a particular sale price.

Friedland discloses that so long as a lot has not been withdrawn from the auction process (e.g., a lot in the pass state), the lot can be put into the open-for-bidding state, at which point in the auction process, real-time bids (as opposed to pre-bids) are solicited for the lot by a live auctioneer.

Based on analyzing Friedland in its proper context, it is unquestionable that Friedland's pre-bid and open-for-bidding states are processes existing only within Friedland's overall auction process and, as such, these pre-bidding and open-for-bidding states in no way correspond to offering an item for sale at a particular price prior to the auction. With this context in mind, modifying Woolston to include Friedland's pre-bidding state and open-for-bidding state would logically result in a modification of Woolston's auction mode, and would not even remotely relate to Woolston's market mode, which, again, is a separate and distinct component apart from Woolston's auction mode.

Since Woolston explicitly discloses the market mode and the auction mode are not related to one another, even if Woolston and Friedland were combined as asserted in the Office Action, there would still be absolutely no disclosure or suggestion that the resulting system would include successful bid determining means for determining a successful bid based on the information received by a prior bid receiving means and the information received by a bid submission receiving means, as recited in pending independent claim 3.

In view of all of the foregoing, reconsideration and withdrawal of the §103(a) rejection over Woolston and Friedland are respectfully requested.

2. Claims 5 and 10 were rejected under §103(a) over Woolston in view of Friedland and further in view of Fujisaki. This rejection is moot with respect to canceled claim 10. With respect to pending claim 5, Applicant respectfully submits that the arguments submitted above distinguish claim 5 from Woolston and Friedland.

Since Fujisaki does not overcome the deficiencies of Woolston and Friedland, and since claim 5 depends directly from claim 3, that claim is also believed to be allowable over the applied prior art of record.

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

January 10, 2005  
Date

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